

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2002-398

October 23, 2002

CENTRAL MAINE POWER COMPANY  
Request for Advisory Ruling Regarding  
Application of Net Energy Billing Credits

ADVISORY RULING

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

In this Advisory Ruling, we conclude that our customer net energy billing rule (Chapter 313) does not require transmission and distribution (T&D) utilities to retroactively apply net energy billing credits earned in a current month against electricity usage in prior months.

**II. BACKGROUND**

On July 9, 2002, Central Maine Power Company (CMP) petitioned the Commission to issue an advisory ruling regarding the application of net energy billing credits under Chapter 313. Specifically, CMP seeks a ruling that T&D utilities are not required to retroactively apply net energy billing credits earned in a current month against electricity usage in prior months.

In its petition, CMP explains that it currently has a Customer Net Energy Billing Agreement with Morgan's Mills, a 30 kW hydroelectric generating facility. CMP states that Morgan's Mills has taken the position that Chapter 313 requires that a current month's excess generation be netted against a previous month's excess usage. CMP disagrees with this interpretation and views Chapter 313 as only requiring that excess generation be applied against future usage.

CMP argues that the language in the rule shows an intent to allow customers to "bank" excess generation from month-to-month for a 12 month period to be applied only against usage in following months. CMP states that neither the rule nor the Order Adopting Rule mentions the retroactive banking of net billing credits.

CMP also argues that it would be unduly burdensome to implement Chapter 313 in the manner advocated by Morgan's Mills. CMP states that retroactive application of credits would require the recalculation and reissuing of previous months' bills for all net billing customers that produced excess generation in any month. According to CMP, the approach would also require it to perform resettlement of supplier load for each affected month, which is inconsistent with NEPOOL rules that require any resettlement to occur within 90 days of the end of the month. CMP argues that such extra work is

outside the scope of Chapter 313, which was intended to minimize the administrative burden on T&D utilities.

On July 25, 2002, Morgan's Mills filed comments on the issue raised in CMP's request for an advisory ruling. Morgan's Mills states that the language of the rule and associated Commission order reveal an intent to compare total production with total usage during a 12-month period. In addition, Morgan's Mills points out that there is nothing in the rule that explicitly prohibits a retroactive application of credits to deficits in preceding months during the same annual cycle. Morgan's Mills explains that the need for a retroactive application of kilowatt-hour credits came up during the last year due to an unusually extended drought and that the basic purpose of the "annualized" net billing approach was to recognize the cyclical nature of some renewable resources, such as small hydro facilities.

Morgan's Mills also disputes that retroactive application of credits would be unduly burdensome, suggesting that CMP could establish "suspense accounts" that would only have to be reconciled once each contract year.

### III. DISCUSSION

For the reasons discussed below, we conclude that the net energy billing rule (Chapter 313) does not require utilities to retroactively apply kilowatt-hour credits against usage in prior months.

The purpose of the net energy billing rule is to facilitate generation from small renewable facilities for a customer's own use through billing and metering requirements that allow such customers to offset their electricity usage with excess generation. *Order Adopting Rule and Statement of Factual and Policy Analysis*, Docket No. 98-621 at 3, 6 (Dec. 10, 1998). However, the rule was designed to carefully balance the benefits of promoting small renewable generation with the costs of doing so. These costs include lost utility revenue that is generally shifted to other ratepayers, as well as the utility costs of administration. *Id.* at 4, 7; *Hydrotricty, Request for Waiver of Chapter 313*, Docket No. 2001-27 at 4 (April 3, 2001).

A plain reading of the language of the rule, as well as the Order Adopting Rule, indicates that the intent of Chapter 313 was only to allow customers to use excess kilowatt-hour credits from a given month to offset usage in subsequent months. There is no language in either the rule or the Order Adopting Rule that sufficiently supports the contrary interpretation of retroactive application of credits. Although the rule could have been written to allow the retroactive application of kilowatt-hour credits, the current rule as adopted does not require such an outcome.

Several provisions of the rule support our conclusion. The definition of "net energy billing" (section 2(C)) is rather clear on this point. The rule defines net energy billing as:

a billing and metering practice under which a customer is billed on the basis of net energy over the billing period taking into account accumulated unused kilowatt-hour credits from the previous billing period.

By reference only to accumulated kilowatt-hour credits from the “previous billing period” (as opposed to credits from future periods), the rule evinces the intent to apply those credits only to subsequent bills. Similarly, the substantive language of the rule also reflects its intent in this regard. Section 3(D)(1), which provides for the treatment of “excess generation,” states:

If the electricity generated during the billing period by the customer's facility plus any kilowatt-hour credits from prior billing periods exceed the customer's kilowatt-hour usage during the billing period, the excess shall be applied to the customer's bill for the following billing period as a reduction in the customer's kilowatt-hour usage.

This provision references kilowatt-hour credits from “prior billing periods” and states that excess credits will be applied to the “following billing period.” The next provision in the rule governing “excess usage” (section 3(D)(2)) refers back to the excess generation provision and states that current generation plus accumulated credits will offset usage in a given month. This language leads only to the interpretation of Chapter 313 as requiring that excess generation credits be used to offset usage in future billing periods.

Moreover, the Order Adopting Rule supports this interpretation and leaves little doubt that the rule was intended to allow credits to be used only to offset future usage. In the Order, we describe the requirements of the rule as follows:

The section implements the annualized approach by allowing customers to roll-over generation in excess of their needs (in the form of kilowatt-hour credits) to be applied against usage in following months. The provision further specifies that customers are billed only for usage that exceeds their own generation during the billing period plus any credits from prior billing periods.

*Order Adopting Rule at 8.*

To conclude, we agree with Morgan’s Mills that the rule was intended to allow for the cyclic nature of some renewable resources. This was accomplished by allowing monthly netting on a rolling basis for a 12-month period. We further recognized the implications of the cyclic nature of some renewable resources when we interpreted Chapter 313 as providing an option for customers to choose their net billing “anniversary” date or an individual month rolling methodology. *Hydrotricity at 5-7.*

In adopting the rule, however, we did not go as far as suggested Morgan's Mills. Accordingly, we issue this Advisory Ruling, as requested by CMP, and conclude that Chapter 313 does not require utilities to retroactively apply kilowatt-hour credits against usage in previous months.

Dated at Augusta, Maine, this 23<sup>rd</sup> day of October, 2002.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond